

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

DONALD J. KILGORE,

Plaintiff,

v.

**WAGONER COUNTY JUDGES
and SHERIFF'S DEPARTMENT,**

Defendants.

No. CIV 13-331-RAW-SPS

OPINION AND ORDER

Plaintiff, an inmate in the custody of the Oklahoma Department of Corrections who is incarcerated at Cimarron Correctional Facility in Cushing, Oklahoma, brings this action under the authority of 42 U.S.C. § 1983, seeking relief for alleged constitutional violations related to his conviction. The defendants are the Wagoner County judges and the Wagoner County Sheriff's Department. Plaintiff alleges he was wrongfully convicted of violating a protective order, and he was denied his right to file an appeal when his attorney fled the county. The court is unsure whether Plaintiff meant "country" rather than "county," but the interpretation does not affect the result here.

The court has carefully reviewed the record and construes plaintiff's pleadings liberally. *Haines v. Kerner*, 404 U.S. 519 (1972). To the extent he is requesting equitable relief in the form of release from confinement, a § 1983 cause of action is not the appropriate means for seeking such relief. Rather, habeas corpus is the exclusive remedy for a state prisoner challenging the fact or duration of his confinement when the relief sought includes immediate or speedier release. *Preiser v. Rodriguez*, 411 U.S. 475, 489-90 (1973).

ACCORDINGLY, this action is, in all respects, **DISMISSED WITHOUT PREJUDICE**. The Court Clerk is directed to send plaintiff the form and instructions for filing a proper petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254.

IT IS SO ORDERED this 2nd day of August 2013.

A handwritten signature in cursive script, reading "Ronald A. White", written in black ink. The signature is positioned above a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma